CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 27, 2000

H.R. 4548
Agricultural Opportunities Act

As ordered reported by the House Committee on the Judiciary on September 20, 2000

SUMMARY

H.R. 4548 would amend the Immigration and Nationality Act by creating a new temporary H-2C visa for nonimmigrant agricultural workers under a three-year pilot program. This new visa would be an alternative to the existing H-2A visa for those types of workers. The bill intends to increase the number of legal nonimmigrant farmworkers by streamlining the process for determining labor force needs and issuing visas.

The bill would specify procedures that employers must follow to make use of this new pool of workers. The Department of Labor (DOL) would be mandated to create and maintain a central registry of American agricultural workers, who would have to apply for inclusion. Employers with job opportunities would have to check with DOL's registry to determine whether American workers would be available, able, and willing to fill those jobs before they would be allowed to hire aliens under the H-2C program. The Department of Justice (DOJ) would have to ensure that all workers on the registry are authorized to be employed in the United States and that employers applying for H-2C visas did not hire undocumented aliens as well. Fees would be paid by employers to use the registry and to hire aliens. Those fees would offset the federal government's cost to administer the program. The bill would also require several studies.

CBO estimates that implementation of H.R. 4548 would reduce discretionary spending by $6 million over the 2001-2005 period. Outlays would increase by about $6 million to pay for the studies and the new registry, but that amount would be more than offset by estimated savings of about $12 million for administrative costs that would be shifted to direct spending.

CBO estimates that enactment of the bill would increase net direct spending by $2 million over the five-year period. Agency spending is estimated to increase by $124 million, but most of that spending would be offset by a net increase in receipts of $122 million. Because the bill would affect direct spending, pay-as-you-go procedures would apply.

H.R. 4548 contains no new intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act, and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4548 is shown in Table 1. The costs of this legislation would fall within budget functions 150 (international affairs), 500 (education, training, employment, and social services), and 750 (administration of justice).

BASIS OF ESTIMATE

CBO assumes that H.R. 4548 will be enacted by early in October 2000, which would make it effective from October 2001 through early in October 2004. Authorized amounts are assumed to be appropriated by the beginning of the fiscal year.

Spending Subject to Appropriation

CBO estimates that enacting H.R. 4548 would decrease discretionary spending by about $6 million over the 2001-2005 period, because savings in administrative costs are expected to more than offset the cost of several mandated studies.

Costs of Studies and Commission. H.R. 4548 would direct several federal agencies and a newly established commission to conduct four studies, which would be conducted over a three-year period. In addition, the General Accounting Office would have to evaluate the program no later than four years after the date of enactment. Assuming a cost per study of about $500,000 plus an additional $750,000 per year to staff the commission, CBO estimates that these provisions would require appropriations of about $5 million over the 2001-2005 period. Outlays over the period would increase by the same amount.

Savings to Department of Labor from not Issuing H-2A Visas. Under current law, the Department of Labor spends about $4 million each year to reimburse state agencies for costs incurred in administering the H-2A visa program. Those costs are considered discretionary. CBO expects that if H.R. 4548 were enacted and fully implemented, employers would shift from H-2A visas to H-2C visas because the application process would be more streamlined and the total cost per immigrant worker might be lower. Under H.R. 4548, however, the administrative costs would be considered direct spending, to be financed by user fees. As a result, CBO estimates that budget authority for discretionary expenditures would decrease by $12 million over the course of the three-year pilot program.

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 4548

	By Fiscal Year, in Millions of Dollars				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Cost of Mandated Studies and Commission					
Estimated Authorization Level	0	2	1	2	0
Estimated Outlays	0	*	2	3	*
Savings to Department of Labor from Not Issuing H-2A Visas					
Estimated Authorization Level	0	-2	-5	-5	0
Estimated Outlays	0	-2	-4	-5	*
Cost of Establishing Registry					
Estimated Authorization Level	1	0	0	0	0
Estimated Outlays	1	*	0	0	0
Total Proposed Change					
Estimated Authorization Level	1	0	-4	-3	0
Estimated Outlays	1	-2	-3	-2	*
CHANGES IN DIRECT SPENDING					
Proposed Changes in Spending					
Department of Labor					
Estimated Budget Authority	0	19	31	32	0
Estimated Outlays	0	17	30	32	3
Department of Justice					
Estimated Budget Authority	0	12	15	15	0
Estimated Outlays	0	11	15	15	1
Department of State					
Estimated Budget Authority	0	3	6	6	0
Estimated Outlays	0	3	6	6	0
Savings to Department of Justice and State from Not Issuing H-2A Visas					
Estimated Budget Authority	0	-3	-6	-6	0
Estimated Outlays	0	-3	-6	-6	0
Total Proposed Change					
Estimated Budget Authority	0	31	46	47	0
Estimated Outlays	0	28	44	47	5

Continued

TABLE 1. CONTINUED

	By Fiscal Year, in Millions of Dollars				
	2001	2002	2003	2004	2005
Proposed Changes in Offsetting Receipts					
Fee Collections under H.R. 4548					
Estimated Budget Authority	0	-28	-56	-56	0
Estimated Outlays	0	-28	-56	-56	0
Loss of Fee Collections from H-2A visas					
Estimated Budget Authority	0	4	7	7	0
Estimated Outlays	0	4	7	7	0
Total Proposed Changes in Offsetting Receipts					
Estimated Budget Authority	0	-24	-49	-49	0
Estimated Outlays	0	-24	-49	-49	0
Total Changes in Direct Spending					
Estimated Budget Authority	0	7	-3	-2	0
Estimated Outlays	0	4	-5	-2	5
CHANGES IN REVENUES					
Civil Penalties	*	*	*	*	*

Note: Components may not add to totals because of rounding.

* = Less than $500,000 per year.

Cost of Establishing Registry. The bill would require DOL to create a registry of eligible American workers who seek agricultural employment. The registry would be set up as part of the already existing databases known as America's Job Bank and America's Talent Bank. Therefore, CBO expects the initial set-up cost to be modest, around $1 million, to be spent mostly during fiscal year 2001.

Direct Spending and Revenues

H.R. 4548 would place new requirements on the Department of Labor and the Department of Justice and would increase the number of visas issued by the Department of State. CBO estimates that administrative costs associated with this pilot program would total around $139 million over the 2001-2005 period. Those costs would be covered by offsetting receipts from fees collected from employers.

CBO assumes that, once the new procedures were fully implemented, all current H-2A visas would be shifted to H-2C visas, thereby eliminating direct spending on H-2A visas by the Departments of Justice and State as well as the H-2A fees collected by those two departments and by the Department of Labor. (Under current law, H-2A fees collected by DOL go to the Treasury Department and are not used to offset costs incurred by DOL.) Taking into account the additional fees and offsetting savings, the net increase in direct spending would be $2 million over the five-year period.

In addition, DOL's activities to enforce labor standards and worker protection requirements could generate revenues in the form of civil penalties assessed on employers. However, CBO expects those penalties to be less than $500,000 per year.

Costs to the Department of Labor. H.R. 4548 would require that several new tasks be performed by DOL to implement the new visa program. CBO estimates that DOL would spend $82 million over the 2002-2005 period.

First, employers who wish to employ aliens under the new visa program would have to submit an application to DOL for workers from the registry. If DOL approves the application, it would search the registry, contact potential workers, and assemble a group of workers willing and able to fill the employer's needs. If there are not enough available American workers, DOL would notify DOJ to admit enough workers with H-2C visas to cover the shortfall. DOL would also notify the Department of State to issue the necessary visas. Moreover, DOL would have to set up a system to collect fees charged to employers to participate in the registry and visa program. In addition, DOL would have to create a program to investigate complaints related to the failure by employers to meet the requirements set by the bill regarding wages, transportation, and housing and to enforce remedies. CBO estimates that DOL would need a total of 100 additional full-time-equivalent employees to carry out these extra duties, at a total cost of $8 million to $9 million per year.

Second, DOL would need to reimburse state employment agencies for the costs associated with the increased number of visa certifications. Information from DOL officials indicates that total state administrative costs for the H-2A program in 1999 amounted to about $4 million. With 41,827 certified applicants, this implies an average cost of about $96 per applicant. CBO estimates that states' costs per H-2C visa would be roughly 50 percent higher, because it would involve starting a new program with new regulations. Thus, accounting for inflation, the cost in 2002 would be an estimated $156 per H-2C visa.

The number of visas that would be issued under this program is difficult to predict. According to the Department of Labor, around 52 percent of the 1.8 million farmworkers—or 936,000 workers—employed in 1999 were undocumented aliens, while fewer than 42,000 alien workers had H-2A visas. On the one hand, there appears to be some support by employers for the H-2C program. On the other hand, however, hiring workers through the H-2C program would still be more expensive and cumbersome than hiring undocumented workers. For the purposes of this estimate, CBO has assumed that, in 2002, 70,000 workers would be issued H-2C visas. In 2003 and 2004, CBO assumes that 140,000 workers would participate in the program. These figures include workers that would otherwise enter with an H-2A visa. As a result, the total cost of certifying H-2C visas in 2002 would amount to about $11 million, increasing to $23 million by 2004, including adjustments for inflation. (Those costs would be partially offset by the projected elimination of discretionary spending for certifying H-2A visas.)

Costs to the Department of Justice. The requirements imposed on DOJ by H.R. 4548 would increase costs by an estimated $42 million over the 2002-2005 period. Those costs would be partially offset by a reduction in direct spending for H-2A visas of an estimated $11 million.

H.R. 4548 would direct the Immigration and Naturalization Service (INS) of DOJ to certify that all persons on the registry established by DOL are authorized to be employed in the United States. INS would also have to establish an automated system to verify that employers who hire H-2C workers do not hire unauthorized workers. Based on information from the INS about similar systems developed by the agency, CBO estimates that this provision would cost around $4 million in fiscal year 2002 and less than $500,000 per year thereafter. In addition, CBO estimates that the cost to DOJ of processing H-2C visas would be similar to the current cost of H-2A visas, about $110 per visa.

Costs to the State Department. Enactment of H.R. 4548 is estimated to result in the issuance of about 70,000 H-2C visas in 2002 and 140,000 per year in 2003 and 2004. According to the State Department, the cost would be $45 per visa. Therefore, the costs incurred by the State Department would amount to an estimated $16 million over the five-year period. Those costs would be partially offset by a reduction in spending for the H-2A visas of roughly $4 million over five years.

Offsetting Receipts

In order to cover the federal costs incurred by the various agencies, H.R. 4548 would mandate that employers be charged two fees where applicable. All employers applying for workers through the central registry would be charged a fee for each job that they try to fill. Employers wanting access to H-2C workers would be charged an additional fee per H-2C worker. DOL would have to establish a fee schedule that would be sufficient to cover the total federal direct spending.

CBO estimates that DOL would need to collect $140 million in fees to cover the outlays by the three federal departments. At the same time, because H-2A fees would no longer be collected, federal receipts from that source would drop by an estimated $18 million. Thus, offsetting receipts would increase by $122 million over the five-year period.

Revenues

Under the bill, employers found to violate the various requirements imposed on them would be assessed a civil penalty of $1,000 per violation. CBO estimates that the total receipts from this provision would amount to less than $500,000 per year.

PAY-AS-YOU-GO CONSIDERATIONS

Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table.

	By Fiscal Year, in Millions of Dollars										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	0	4	-5	-2	5	0	0	0	0	0
Changes in receipts	0	0	0	0	0	0	0	0	0	0	0

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 4548 contains no new intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

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